

RULES AND PUBLIC POLICY COMMITTEE

DATE: May 12, 2009

CALLED TO ORDER: 5:30 p.m.

ADJOURNED: 7:38 p.m.

ATTENDANCE

ATTENDING MEMBERS

Robert Lutz , Chairman
Bob Cockrum
Monroe Gray
Barbara Malone
Angela Mansfield
Lincoln Plowman
Joanne Sanders

ABSENT MEMBERS

Marilyn Pfisterer

AGENDA

PROPOSAL NO. 135, 2009 - confirms the Mayor's nomination of Dan Ladendorf to the City-County Ethics Commission
"Do Pass" Vote: 7-0

PROPOSAL NO. 174, 2009 - confirms the mayor's nomination of Gary Roberts to the City-County Ethics Commission
"Do Pass" Vote: 7-0

PROPOSAL NO. 136, 2009 - amends the Code with respect to appropriations of funds from federal stimulus grants
"Do Pass As Amended" Vote: 7-0

PROPOSAL NO. 175, 2009 - reviews the 2009 tax rates, tax levies and budgets of certain civil taxing units and adopts recommendations with respect to such tax rates, levies and budgets
"Do Pass" Vote: 6-0-1

PROPOSAL NO. 176, 2009 - approves the issuance of Waterworks District Net Revenue Bonds in an aggregate principal amount of refunding bonds not to exceed \$540,000,000 and other actions in respect thereto
"Do Pass" Vote: 7-0

PROPOSAL NO. 177, 2009 - amends the Code to establish a new city department of code enforcement, to consolidate into two sections the various fees to be collected by the new department, and to make corresponding technical corrections

"Postpone" until June 16, 2009

Vote: 7-0

PROPOSAL NO. 178, 2009 - amends the Code by adding provisions to clarify Chapter 531 regarding regulation of pit bulls, including registration and sterilization, better humane standards for the care and treatment of all dogs, and requiring all dogs and cats adopted out of the animal care and control system to be altered

"Tabled"

Vote: 7-0

RULES AND PUBLIC POLICY COMMITTEE

The Rules and Public Policy Committee of the City-County Council met on Tuesday, May 12, 2009. Chairman Robert Lutz called the meeting to order at 5:30 p.m. with the following members present: Bob Cockrum, Monroe Gray, Barbara Malone, Angela Mansfield, Lincoln Plowman and Joanne Sanders. Marilyn Pfisterer was absent. Councillor Mike Speedy was also in attendance. General Counsel Robert G. Elrod and Chief Financial Officer James Steele represented Council staff.

Chairman Lutz asked all committee members to introduce themselves and indicate which portion of the County they represent. He asked for consent to move Proposal No. 177, 2009 first on the agenda because those individuals speaking to the proposal have a prior engagement. Consent was given.

PROPOSAL NO. 177, 2009 - amends the Code to establish a new city department of code enforcement, to consolidate into two sections the various fees to be collected by the new department, and to make corresponding technical corrections

Rick Powers, director of the Office of Code Enforcement, gave the committee a brief overview and said that he will provide a more in-depth presentation at a future meeting. He said that this proposal is really about quality of life issues in Marion County. He said that if a citizen were to ask any one of the committee members or a city employee where they need to go to get a license, permit or inspection, the response would have to be that it depends on what type of license, permit or inspection the person is wanting. He said that this proposal seeks to find all of those three core functions throughout city and county government and move them all to one area. He said that the Mayor issued an executive order to create an Office of Code Enforcement, but Council approval is needed to create the department. He said that this office will handle all issues of compliance, such as high weeds. Previously, the Department of Public Works (DPW) would mow high weeds, even though that was a distraction from their normal duties and not an initial function for that department. He said that functions like mowing, towing, environmental services, illegal dumping, compliance, and business licensing will all be brought into this one department, along with resources, and the intent is for the new department to be fully fee-supported while providing citizens with more efficient, expedient and responsive service. He said that they have begun engaging the public in this change, and have seen a groundswell of support, including from the development community. He said that everyone seems to be receiving this news as something that should have been done years ago. He said that they will be happy to provide a full presentation at a future meeting as requested by the committee.

Chairman Lutz stated that the proposal is a very lengthy document, with over 230 pages, and he wants members to have time to digest all the information before taking a vote. He asked Mr. Powers what type of timeline is needed in passing this ordinance. Mr. Powers said that he would like to have the proposal adopted before the 2010 budget

discussions. The goal is for this department to be standing on January 1, 2010 as a separate department, and therefore, it would be preferable to have the department officially established before entering into budget discussions for 2010. Chairman Lutz asked if the first meeting in July would be sufficient time. David Reynolds, City Controller, stated that the budget is presented at the first Council meeting in August, and waiting til July to act might be cutting it a little close. Chairman Lutz asked if the last meeting in June would be preferable. Mr. Reynolds said that this would be more acceptable, so that the proposal could be approved by the full Council in July.

Councillor Sanders asked if the presentation will show staffing for the new department. Mr. Powers answered in the affirmative and said that the functions of staff will not really change, but they are simply moving current positions over to the new department and changing some job titles. Councillor Sanders said that she would also like to see a fiscal impact statement during the presentation.

Councillor Mansfield said that while she can appreciate a one-stop shop, she is not sure why a separate department is needed and the same thing cannot be accomplished by creating a new division within the Department of Metropolitan Development (DMD). Mr. Powers said that the sheer magnitude of all those doing this type of work is the reason for a new department. He said that while many of these duties are performed by DMD staff and are relative to the work of DMD, there are many other areas of government included, such as fire marshal inspections, weights and measures, and business licensing. He said if it were simply a matter of compliance, a division might have worked; but they have expanded the role of compliance to include permitting and licensing, and not all of these functions are associated with DMD. He said that the Department of Public Safety (DPS) will also have a significant role in this new department, as some of its core functions will relate to those types of services.

Councillor Mansfield said that since Mr. Powers brought up the subject of weeds, citizens seem confused as to whether to contact Code Enforcement or the Health and Hospital Corporation (HHC) with complaints. Mr. Powers said that the nuisance ordinance was just amended for a quicker means to abate the weed problem, and therefore, it would probably be best for citizens to contact the Mayor's Action Center (MAC) with complaints and let the Office of Code Enforcement have the first shot at addressing the problem. They, in turn, can refer it to HHC if needed, but with the new tools in place, Code Enforcement can probably move more quickly to address the problem than HHC.

Councillor Gray stated that there seems to be a rash of three-day violations on parking in front of homes, where citizens go on vacation and return home to find their cars towed. Mr. Powers said that this would only happen if the vehicle is in the right-of-way or illegally parked, or if the car has an invalid license plate or other characteristics that would signify it as abandoned. He said that if the car was in the right-of-way, it would be the Indianapolis Metropolitan Police Department (IMPD) who towed the car, and not anyone from abandoned vehicles. Councillor Gray said that these are perfectly working

vehicles parked in front of the owners' residences, where there is no restriction on parking, and it seems to be taking place frequently. Mr. Powers said that there is a 72-hour ordinance regarding abandoned vehicles in the right-of-way, but unless he knows the exact case, he cannot really comment. He asked Councillor Gray to contact him with details of the case, and he will track down what is happening.

Chairman Lutz asked the Clerk to provide the next several meeting dates. The Clerk said that meetings are scheduled for May 26, June 16 and July 7, 2009. Chairman Lutz asked if the June 16th meeting would be acceptable for Mr. Powers to return and provide a more in-depth presentation. Mr. Powers responded in the affirmative.

Councillor Mansfield moved, seconded by Councillor Gray, to "Postpone" Proposal No. 177, 2009 until June 16, 2009. The motion carried by a vote of 7-0.

PROPOSAL NO. 135, 2009 - confirms the Mayor's nomination of Dan Ladendorf to the City-County Ethics Commission

Chairman Lutz welcomed Mr. Ladendorf and stated that many committee members may be familiar with Mr. Ladendorf, as he worked in various departments and agencies of the city and county for many years. He added that Mr. Ladendorf is also a graduate of the Indiana University School of Law, his alma mater.

Mr. Ladendorf said that he appreciates the opportunity to serve. He stated that he served on the former Board of Ethics for multiple terms since 2000, and he believes he has the experience to serve well in this capacity. He said that he believes ethics to be an important function for local government and sees the Ethics Board as the conscience of the organization. He said that he takes the responsibility seriously and looks forward to serving the community again, as being in the private sector after 17 years of serving the public, he often misses that aspect.

Chairman Lutz asked if Mr. Ladendorf lives in Marion County. Mr. Ladendorf answered in the affirmative.

Councillor Cockrum said that the proposal says these are three-year terms, but indicates in Section 2 that the term ends December 31, 2009. Mr. Elrod said that the terms are meant to be staggered, and therefore, the initial terms may not be for three years.

Councillor Gray asked how many years Mr. Ladendorf served on the Ethics Board. Mr. Ladendorf responded that he was first appointed in 2000 or 2001 and served until the recent ethics ordinance passed that restructured the board. Councillor Gray asked how many cases on average the board heard per year. Mr. Ladendorf stated that they heard very few cases. He said that most of their duties were to review the ethics forms filed by employees and follow up on any where there were questions. He said that the board maybe had 10 to 20 cases where city employees wanted to bid on city business or operate a business outside of their city employment for which the employees wanted

clarification that they were not violating the ethics ordinance. He said that they may have had two or three other special cases besides those.

Councillor Plowman moved, seconded by Councillor Cockrum, to send Proposal No. 135, 2009 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

PROPOSAL NO. 174, 2009 - confirms the mayor's nomination of Gary Roberts to the City-County Ethics Commission

Chairman Lutz noted that Mr. Roberts' term expires in 2011, and he is the Dean of Indiana University School of Law.

Mr. Roberts stated that he accepted the position of dean at the university in 2007. While he has no experience specifically in Marion County government, he served as a faculty member and deputy dean at Tulane Law School in New Orleans, Louisiana, and he is very familiar with ethics issues. Because of his law background, he is also very experienced in conflicts of interest and ethical standards. He said that this is his first opportunity to serve on a board reviewing these types of situations, and he is looking forward to serving.

Chairman Lutz asked if Mr. Roberts lives in Marion County. Mr. Roberts answered in the affirmative.

Councillor Mansfield moved, seconded by Councillor Sanders, to send Proposal No. 174, 2009 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

PROPOSAL NO. 136, 2009 - amends the Code with respect to appropriations of funds from federal stimulus grants

Chairman Lutz stated that this proposal was postponed at the last committee meeting, as changes were suggested and an amendment would need to be drafted.

Councillor Cockrum made the following motion:

Mr. Chairman:

I move to amend Proposal No. 136, 2009, Sec. 181-307 (c) and (d) on page 2 of the proposal, by deleting the stricken-through text and inserting the underlined text to read as follows:

(c) Whenever the city submits projects for funding from federal stimulus funds, the city controller may submit a proposal for a special resolution approving one or more such projects for review by the council committee that would approve the budget of the agency submitting such projects for such funding. If

the council committee approves such proposal, it shall be placed on the council agenda at its next meeting under "Special Orders – Priority Business."

(d) With respect to any project approved by the ~~appropriate committee~~ council that ~~are~~ is approved for funding by the state or federal government from federal stimulus funds, the city controller may, to the extent authorized by state or federal law or regulations, spend such funds in accordance with the application approved by the ~~committee~~ council without appropriation or further approval by the council.

Councillor Plowman seconded the motion.

Councillor Sanders stated that the bulk of the discussion on this proposal was with regard to the speed in which the city must act on the receipt of these funds. She asked if any funds have yet been received, and if any projects are in the pipeline for which this proposal allows the funds to kick in. Mr. Reynolds said that the Justice Assistant Grant (JAG) application that was passed at the last Council meeting has several projects tied to it. He added that there are also some DPW funds and energy and green funds anticipated. Councillor Sanders asked about the energy and green funds and if they are in hand already or the city will have to apply. Mr. Reynolds said that they are in the application process for this \$8 million. Councillor Sanders asked if the DPW funds he referred to are through the Indiana Department of Transportation (INDOT). Mr. Reynolds responded in the affirmative.

Councillor Gray said that he understood the stimulus money projects would be posted on the city's web page. Mr. Reynolds said that he does remember some discussion about putting a list of such projects on the web, but he has not looked at the website recently and cannot speak to that at this time. Councillor Gray said that there was some controversy about that on a radio station the other day and there are no projects listed on the website as to how money is being spent. He said that this issue needs to be corrected. Mr. Reynolds stated that he will look into the matter.

The motion to "Amend" Proposal No. 136, 2009 carried by a vote of 7-0. Councillor Gray moved, seconded by Councillor Mansfield, to send Proposal No. 136, 2009 to the full Council with a "Do Pass As Amended" recommendation. The motion carried by a vote of 7-0.

PROPOSAL NO. 175, 2009 - reviews the 2009 tax rates, tax levies and budgets of certain civil taxing units and adopts recommendations with respect to such tax rates, levies and budgets

Councillor Sanders asked why this proposal was referred to the Rules and Public Policy Committee, as such ordinances are generally heard in the Administration and Finance Committee. Mr. Elrod said that this is the first time any such ordinance has been done, as this is a result of House Enrolled Act (HEA) 1001, 2007. Councillor Sanders stated that proposals dealing with tax rates have always gone to Administration and Finance.

Chairman Lutz said that he does not know the reasoning, but simply schedules any proposals referred to Rules and Public Policy for a hearing. Councillor Cockrum stated that, as president, he referred the matter to this committee because it dealt with a lot of different entities and not just city and county finance agencies. He added that this proposal is a formality, and the state will not approve these budgets until the Council goes through the process of confirming them. He said that the Council does not have the authority to change the budgets, but the state will not accept them without the Council's confirmation.

Mr. Elrod explained that HEA 1001, 2008 included a provision that certain taxing units submit their budgets to the county council for approval. While many are still not convinced this provision applies to Marion County, the Department of Local Government Finance (DLGF) will not approve the submitted budgets until the Council makes a recommendation. He said that since most taxing units did not believe this applied to Marion County, none of these entities submitted their budgets for recommendation. The Council only has the authority to review the budgets and make a recommendation to the taxing unit, which can then in turn either ignore the recommendation or change their budget based on such. These recommendations should have been made before the budgets were finalized by the taxing units and submitted to DLGF. Councillor Sanders asked if these recommendations are then non-binding. Mr. Elrod replied in the affirmative and said that they hope to have the process cleaned up and handled in a more effective way for the 2010 budget; but at this time, these budgets have already been adopted and they will have to leave the decision up to DLGF as to what effect any after-the-fact recommendation will have. Councillor Sanders stated that issues such as tax levies and rates have been referred to the Administration and Finance Committee in the past, and she believes that is where this proposal should have gone. Mr. Elrod said that tax issues regarding municipal corporations usually go to the Municipal Corporations Committee, and typically, city and county rates do go before the Administration and Finance Committee. However, these are not city and county rates.

Chairman Lutz said that he understood the statute to say that an average increase must be included. Mr. Reynolds stated that if they went through the normal process, where the Council was making recommendations back to the governing board, they would include this, but it was not part of this review. He said that they will, however, probably have to include that average moving forward when this provision is inserted into the normal budget process.

Mr. Reynolds explained that HEA 1001, 2008 inserted a requirement for the county fiscal body to do a non-binding review of budgets within the county that were not previously reviewed by them. He said that this review is supposed to take place prior to the governing body taking final action on their budget. In preparing for the 2010 budget process, the Office of Finance and Management (OFM) will be inserting these budgets into the process for non-binding review to communicate back to the governing body in time for them to take appropriate action if they are so inclined. He said that they did not perform these reviews as part of the 2009 budget process because there was some

discrepancy as to whether or not it was required. After further communication with DLGF, they will not consider or act on these budgets without the non-binding review. This review is to be conducted on all governing units within Marion County, with the exception of schools, which includes excluded cities, included cities and towns, and individual townships.

Mr. Reynolds provided a spreadsheet (attached as Exhibit A) to committee members. He said that they are still finalizing the 2008 rates with DLGF. The assessed valuations (AVs) are complete and the budget orders for Pay-2008 should be coming out of DLGF this week, but they do not yet have them. He said that this spreadsheet therefore shows the 2008 projected levy, certified AVs and projected rate. He said that this spreadsheet is focusing on the 2009 budget and shows the levy, AV and tax rate the governing body passed. Mr. Reynolds said that he acts in the role of the County Auditor in publishing all of these tax rates. The governing bodies submit their rates to OFM, and he tabulates them and produces the tax rate sheet. He said that because the city is behind in property tax billings, the AVs used in different units were not consistent in how they were calculated. He said that he has not yet published the 2009 budget and tax rates, as required, because of this outstanding non-binding review. He explained that the third column on the spreadsheet shows the levy, AV and calculated tax rate. In working with these government units, he wanted to make sure there were no issues, and the published version of rates may be different than what the governing body passed. He said that the governing body may have passed a levy that was greater than the maximum allowed, and he is holding those levies to the maximum, as well as standardizing the AV amounts. He added that the DLGF recommended a 25% reduction in AV from the 2008 certified, which also changes the tax rate; and therefore, the last column on the spreadsheet shows the difference between what the governing body passed and what he is publishing.

Councillor Mansfield referred to Pike Township's numbers and said that it looks as though they passed an amount that was almost double what they were at the year before. Mr. Reynolds explained that the maximum levy for fire was \$11.6 million, and townships could do emergency loans for a three-year period and set a debt levy to pay off that emergency loan. In 2008, Pike had a maximum levy of \$11.6 million, and the governing body passed an extra \$5.2 million to pay off the emergency loan. Then, they passed the levy for fire at \$17 million, where they were spending. He said that he believes DLGF will cut that amount back to the maximum levy of \$11.6 million and Pike will have to take out another emergency loan to make that up and will have to take another to pay off 2009.

Councillor Malone said that she noticed there is no levy established for poor relief in Pike Township. She asked the reason for that. Mr. Reynolds said that Pike does not levy a tax for poor relief and must be doing it with other levies. Councillor Malone asked if this is permissible. Mr. Reynolds answered in the affirmative. Councillor Mansfield asked what other revenues would pay for poor relief. Mr. Reynolds said that they are probably using County Option Income Tax (COIT).

Chairman Lutz said that the practice in the past was to publish higher than what was expected, so that they were not limited by the publication. He asked if they are not doing that with this publication. Mr. Reynolds said that he is publishing at what he thinks DLGF will hold them to. He said that he has not done this spreadsheet in a vacuum, and has been working for five months with all units to make sure they are comfortable with the data he is publishing. He said that the goal and intent for this is to provide the most current and accurate information to the taxpayers in advance of what their bills will be, with a realistic calculation of rates. He said that he has tried to eliminate the practice of overstating the budget to artificially inflate the rates. In the past, a tax rate was reported that was clearly not going to happen.

Chairman Lutz said that with regard to Speedway, the governing body passed a levy of \$7.6 million, but a \$6.9 million levy was published. He stated that this then results in a higher tax rate published than the passed version. Mr. Reynolds said that it will come down to the AVs. He said that this was his attempt to standardize calculations, and they have no idea what the AVs will be; but if using different assumptions on the AVs in each area, the tax rates will not add up overall. Chairman Lutz asked how the city gets those AV calculations. Mr. Reynolds said that they took the certified 2008 AV and reduced it by 25% as per DLGF's recommendation.

Councillor Gray asked if this recommendation is for 2009, since it is too late for 2008. Mr. Reynolds said that 2008 is already spent, but they are just now getting the budget orders this week. Councillor Gray said that this can only then be applied to 2009 going forward. Chairman Lutz asked if they are operating under these budgets now. Mr. Reynolds responded in the affirmative.

Councillor Sanders asked why the police and fire pensions and street (highway) levies are zeroed out for Beech Grove. Mr. Reynolds said that the state picked up the police and fire pensions, so there was no levy necessary, and the governing body simply did not ask for a street (highway) levy in 2009.

Mr. Steele stated that with regard to tax rates and advertisements, Mr. Reynolds is attempting to reflect reality so that people can understand what will really happen to their property tax bills. He said that people look at these published rates after budgets are finished. In the past, they have sometimes tried to protect the rates and levies by advertising astronomical rates and levies, up to 40% increases in some cases; but that is very unrealistic. Councillor Gray asked if there is therefore no inflation in these numbers and if the published rates are the real deal. Mr. Reynolds said that they are based on the best information he has available to him at this time, but he does not know what the AVs are going to be. He said that a 25% reduction is probably aggressive, and they probably will not be that low. He said that he thinks they will be slightly higher, which will drive rates down, but on the levy side, these published numbers will hold the governing bodies at their projected maximum levy and eliminate super inflation.

Chairman Lutz asked if the DLGF will not even consider these budgets until this recommendation is formalized. Mr. Reynolds stated that this is correct.

Councillor Cockrum asked what the state is trying to accomplish with these recommendations, since they are simply a review and are not binding. Mr. Reynolds said that when it is done in the proper sequence, the Council can make recommendations back to the governing unit for their 2010 budget. He said that the goal, he believes, was to have one body overlooking the total tax rate for the whole county, so that there could be a complete picture. He said that having these entities submit their budgets will help him do that and help the Council to make recommendations and try to influence the direction those rates will go, even though the governing units do not have to act on the recommendations. Councillor Cockrum asked if a unit has an appeal process if they do not agree with the Council's recommendations. Mr. Reynolds said that the board can take the recommendations and incorporate them or pass their budget as submitted. The passed budget would then come to OFM for publication, where, as Controller, he can adjust levies and rates based on insufficient revenues or errors. If that happens, the unit can appeal to the DLGF for relief from that publication. Councillor Cockrum said that for years he served on the County Tax Adjustment Board. A unit of government could appeal the board's decision to the state, and the state usually sided with the unit of government. He asked if it is likely the DLGF will side with the governing bodies over OFM's published rates. Mr. Reynolds said that he cannot say. He said that he is trying to keep the unit rates below the statutory limits, while trying not to harm their ability to operate. He said that he has no idea how the state will react to the published rates.

Mr. Elrod said that when handled in the proper sequence, if the Council makes a recommendation to Beech Grove and they pay no attention to that recommendation, it is within their right to do so. However, the Controller now acts as the tax adjustment board, publishing Beech Grove's rate, and taxpayers can appeal to the state regarding the rates published. If the governing unit ignores the Council's recommendation, the rate would go into the audited report or publication, which typically happens in October or November, and then taxpayers could appeal to DLGF saying that the board ignored the recommendations. This puts the taxpayers in a position to appeal, instead of the city.

Chairman Lutz said that these were published after the budgets were adopted and the appeal may not apply. Mr. Elrod said that the statute indicates that the appeal process kicks in after the published rate is advertised. He said that he is not sure what the DLGF will do in this case, because this process is so far out of sequence. Mr. Reynolds said that there is a period of 10 to 14 days after the publication when the unit can appeal to DLGF.

Councillor Mansfield moved, seconded by Councillor Cockrum, to send Proposal No. 175, 2009 to the full Council with a "Do Pass" recommendation.

Chairman Lutz asked if there is a way to break out the vote regarding the Town of Clermont and Speedway Public Library, as he represents those entities in his law practice at times, and would not feel comfortable voting on that portion. Councillor Mansfield said that last year in dealing with the budget, Councillor Mary Moriarty Adams declared her intent to abstain from the portion dealing with her employer, but still voted on the proposal as a whole. She said that this could probably be handled in the same way verbally. Mr. Elrod said that under the current ethics rules, because Chairman Lutz does not have a personal interest in the outcome of those budgets, there is probably no conflict. Chairman Lutz stated that he will simply abstain from voting to avoid the appearance of a conflict.

The motion to send Proposal No. 175, 2009 to the full Council with a "Do Pass" recommendation carried by a vote of 6-0-1, with Chairman Lutz abstaining.

PROPOSAL NO. 176, 2009 - approves the issuance of Waterworks District Net Revenue Bonds in an aggregate principal amount of refunding bonds not to exceed \$540,000,000 and other actions in respect thereto

Deron Kintner, executive director of the Indianapolis Local Public Improvement Bond Bank (Bond Bank), introduced Matt Klein, new executive director of the Department of Waterworks (DOW). He said that this resolution allows them to move forward in the refunding of variable rate bonds. He said that these rates are being re-set every seven days and are impacted by significant turmoil and the market crunch, as well as a tainted bond insurer, and the market has no interest in holding these bonds.

Chairman Lutz asked if these downgrades have anything to do with what the city or DOW has done. Mr. Kintner said that it is mostly due to the market. He said that DOW's credit has not been impacted, but right now, the market has chosen to only accept bonds with high interest re-set or no bonds at all. He added that once the market does accept bonds, they will change the terms to 10-year bonds instead of 30 years, making the bond payments less manageable. He added that because there was a swap agreement involved in an effort to hedge against interest rate increases, this has had a double impact. Mr. Kintner said that the proposal allows refunding up to \$540 million. This includes the \$390 million for the outstanding bonds, \$5 million for the cost of issuance, and the bond insurance, which is somewhat fixed. The biggest variable is the termination value on the swap agreement, which changes daily, if not hourly, according to LIBOR (Lending Interbank Offered Rate).

Chairman Lutz asked for an explanation of a swap agreement and LIBOR. Mr. Kintner stated that a swap agreement was entered into by the Bond Bank and DOW on the variable rates outstanding. They entered an agreement with the bank to pay them a fixed rate, and the bank would pay a variable rate. The assumption is that the variable rate will increase, but DOW is still left paying that fixed rate. The variable rate they pay on the bonds is tied into the market index for municipal bonds. The variable rate received is based on the LIBOR index, and they usually move in tandem together.

However, LIBOR has decreased and the payment on the bond has increased. Currently, this is a good situation for a counter-party bank, who would receive the fixed rate and pay little on the variable rate. They would take the current payments under contract and take the present value of payments and pay them out for the duration of the swap agreement. When they first looked at terminating a few months ago, the termination value of the swap agreement was \$110 million. At the time this resolution was submitted, it was at \$80 million; and as of today it would be \$63 million. However, it keeps moving, so they have assumed that higher number during this approval process to allow them to terminate at whatever the cost fluctuates to be.

Councillor Gray asked if it would cost them an extra \$63 million if they resold the bonds today. Mr. Kintner said that this is correct, but they will pay the termination value on the day that the bonds are issued, and he hopes that it will continue to decrease. Councillor Gray asked if the economy had not gone bad, if this swap agreement would have been a good way to go. Mr. Kintner said that it is difficult to say. He added that they saved money in the first couple of years, though; so if times were good, they would likely save money.

Chairman Lutz asked how much money this proposal will save DOW. Mr. Kintner said that it will save money in the short term, as the bonds are no longer trading in the market. They have been amortized over 10 years instead of 30 years, which would require a large cash payment by June 30, 2009, if the bonds are not refunded. Chairman Lutz said that the bonds would then be paid off 20 years sooner. Mr. Kintner said that they would, but it would cost the DOW an extra \$43 million a year. Mr. Klein likened it to a 30-year home mortgage having to be paid in 10 years.

Councillor Mansfield asked how MBIA Insurance Corp, the bond insurer, became tainted. Mr. Kintner said that MBIA was also wrapped up in other risky investments, outside of municipal bonds, that caused a credit crisis with the company.

Mr. Kintner explained that if the refunding bonds were issued today, the cost would be \$460 million, and they will only spend the amount they need, and not the entire \$540 million. Mr. Klein gave a brief Powerpoint presentation (attached as Exhibit B) and stated that he has been on the job for five weeks and feels this refunding is the best option for DOW at this time.

Councillor Plowman asked if DOW has any other variable rate debt. Mr. Kintner said that this is one of three pieces. One of the other pieces worth \$50 million is held by another bank which is highly rated, and they will continue to leave that piece as is in variable rate mode, as it is within the industry rate. Another \$50 million of debt they hope to fix in June or July, but this is by far the largest piece. Mr. Klein said that the acceptable variable rate debt is 20%, and they will go from almost 60% of variable rate debt to 5% once these bonds are refinanced.

Councillor Gray asked if the cost of refinancing is added into the bond cost. Mr. Klein said that it is and \$540 million is a high estimate, which would more realistically be \$460 million today. Councillor Gray asked if DOW is actually paying up instead of down with this refunding. Mr. Kintner said that the only other option is to come up with \$40+ million each year to pay the debt down at an accelerated pace, which is not an ideal scenario. He said that he believes this is the best alternative they are faced with, as some certainty is needed with this exposure to a variable rate market. Councillor Gray asked what percent the fixed rate will be. Mr. Kintner said that it will probably be around 6%, and maybe as low as 5.5%.

Chairman Lutz asked what rate they are paying now. Mr. Kintner said that they are not trading on the market and the bonds are held by the bank. They are paying about 5.5% right now, but the interest rate is not the problem. The problem is the accelerated amortization and the annual debt service they would have to pay.

Councillor Sanders asked how quickly they can complete the transaction if this proposal passes the full Council on Monday. Mr. Kintner said that they have to complete it before the June 30th payment is due. He said that after passage, they will look to sell the bonds within two weeks, with another one to two weeks for closing. Councillor Sanders asked if this is the reason they cannot more accurately project the swap termination costs. Mr. Kintner said that this is correct.

Chairman Lutz asked if the bond insurance has created havoc on the budgeting forecast. Mr. Kintner said with a fixed premium, this will not be a problem. There is only one piece remaining in variable rates, and no insurance is needed on that piece.

Councillor Gray asked if this is a one-time deal, or if they will need to refund more bonds in this manner. Mr. Kintner said that this is all for this series of bonds. He said that there are some 2002F bonds issued for Circle Centre, but he is not anticipating any refunding there, as they seem to be under control.

Chairman Lutz asked if these bonds were originally issued in 2005. Mr. Kintner responded in the affirmative. Chairman Lutz asked Mr. Steele for his input on this transaction. Mr. Steele said that he has reviewed this refunding considerably. While it is not a pleasant situation DOW is in, he feels this is the best solution available. This will allow them to do proper budgeting, because they will know the debt service costs. This year and last year, DOW had tremendous trouble with their budget because of extraordinary debt. Mr. Klein agreed and said that the refinancing structure will allow them to make stable debt service payments which are predictable and consistent. He thanked Mr. Steele for all his efforts in helping to work out this funding issue. Mr. Kintner agreed and said that the interest has caused a great amount of strain on the budget, not knowing where the debt service will end up. Mr. Klein added that this will save millions of dollars in debt service over the next 30 years.

Councillor Sanders moved, seconded by Councillor Plowman, to send Proposal No. 176, 2009 to the full Council with a "Do Pass" recommendation.

Chairman Lutz asked if he needs to call for public testimony on this matter. Mr. Elrod stated that DOW already advertised and held a public hearing on the refunding, but the Chair can call for another if he so chooses.

The motion to send Proposal No. 176, 2009 to the full Council with a "Do Pass" recommendation carried by a vote of 7-0.

Councillor Gray asked what impact this transaction will have on the ratepayer. Mr. Klein said that there are two rate cases going on, and it is their intent to keep the ratepayers informed of the rate cases. He said that the 17.5% rate increase should get them through the end of the year, and he is not sure what the outcome of the general rate case will be.

PROPOSAL NO. 178, 2009 - amends the Code by adding provisions to clarify Chapter 531 regarding regulation of pit bulls, including registration and sterilization, better humane standards for the care and treatment of all dogs, and requiring all dogs and cats adopted out of the animal care and control system to be altered

Chairman Lutz stated that the agenda notice indicated no public testimony will be taken on Proposal No. 178, 2009 this evening, but a process for public input would be announced. He called on Councillor Speedy, sponsor and initiator of the proposal, to give a brief overview.

Councillor Speedy said that he believes this is a crucial public safety initiative that also regards the welfare of animals in the city. He said that there are four parts to this proposal: the recitals, the body of the proposal, anticipated amendments, and the process by which the public gets to participate. The recitals are the "whereas" statements that provide policy and background as to why this ordinance is being considered. He said that in an early version, the recitals were strictly written from a dog bite victim standpoint. As a result of listening to responsible dog owners, the recitals have been re-written to provide a more balanced view of the intent of the proposal. He read from recitals one and two, and referred to a recent visit to the Humane Society where he saw a pit bull with his leg removed because of chain abuse. He said that over the last few years, there have been more and more incidents of dog bites.

Councillor Speedy said that when drafting the body of the proposal, he wanted to learn what other communities are doing. He said that the proposal addresses care and treatment of animals and changes in tethering requirements, and beefs up a dangerous dog ordinance Councillor Mansfield and former Councillor Phil Borst offered several years ago. He said that this proposal identifies a pit bull as an at-risk breed. The proposal offers requirements to help reduce the population of at-risk breeds by registering, microchipping, sterilization, and limiting two per household. Limiting the

number of at-risk breeds per household also helps to identify dogfighters. He said that dogfighting is outlawed in all 50 states and considered a felony, but is still a serious problem, even though it has been outlawed in Indiana for 17 years. He said that he anticipates more amendments before the process is complete. He said that the director and deputy director of the Department of Public Safety (DPS) went through the proposal and made some suggestions for changes, including signage requirements for dangerous dogs, dogfighting penalties, photo requirements, and the creation of an animal care and control fund. He said that he anticipates more exceptions, especially to the two-dog limit for at-risk breeds, for breeders and qualified rescue groups.

Councillor Speedy said that he would like to offer amendments for consideration at the May 26, 2009 committee hearing and would like to see three additional meetings set to review and discuss the proposal. He said that one meeting would be reserved for expert testimony, another as a public hearing for those who oppose the proposal, and a third as a public hearing for those who support the proposal. He said that he is requesting separate public hearings because being a dog bite victim changes a person's perspective, and it is hard for them to be in a room with others who have such polarized thoughts on the subject. He said that he would like to see expert testimony scheduled for the regular June 16, 2009 Rules and Public Policy Committee meeting. Other dates discussed were June 17, 2009 for a public hearing to hear testimony from those who oppose the proposal and June 22, 2009 for testimony from those who support the proposal. He asked that the Committee consider and embrace this suggested process.

Chairman Lutz said that he is concerned about the amount of attention the committee will need to expend on this matter, when there are many other issues facing the city at this time. Councillor Sanders said that she shares those concerns and moved, seconded by Councillor Mansfield, to "Table" Proposal No. 178, 2009.

Councillor Speedy asked if he could speak to the motion to "Table." Chairman Lutz stated that it is his understanding that there is no debate on a motion to "Table." Mr. Elrod confirmed that this is correct.

The motion to "Table" Proposal No. 178, 2009 carried by a vote of 7-0.

Chairman Lutz said that, ideally, he would like to take up the proposal again after the budget process is complete. There being no further business, and upon motion duly made, the meeting was adjourned at 7:38 p.m.

Respectfully Submitted,

Robert Lutz, Chairman

	2008 Projected		2009 Published Version		Difference 2009 (Published vs. Projected)	
	Pay 2008 Max Levy	Certified 2008 A.V.	Pay 2009 Levy	25% Red. of 2008 Certified A.V.	Δ in Levy	Δ in Rate
City of Birch Grove						
City Corp. (General)	\$5,121,206	0.9789	\$5,643,202	1.4382	\$511,996	(0.4192)
Street (Highway)	\$86,905	0.0166	\$0	-	\$0	-
Fire Pension	\$160,831	0.0307	\$0	-	\$0	-
Police Pension	\$274,260	0.0524	\$0	-	\$0	-
Debt Service			\$545,255	0.1616	\$545,255	(0.0226)
Tax Increment Replacement			\$100,000	0.0250	\$100,000	(0.0226)
Total Funds	\$5,643,202	1.0787	\$6,388,457	2.6649	\$745,255	(0.4410)
Breck Grove Public Library						
Library (General)	\$748,213	0.1520	\$748,213	0.2027	\$0	0.0206
Library Debt Service	\$321,367	0.0653	\$372,369	0.1009	\$51,002	0.0185
Total Funds	\$1,069,580	0.2173	\$1,120,582	0.3036	\$51,002	0.0863
City of Lawrence						
City Corp. (General)	\$8,708,133	0.4925	\$8,691,553	0.7103	\$16,580	(0.0077)
Cumulative Capital Development	\$711,705	0.0401	\$554,442	0.0401	\$157,263	-
Lawrence Municipal Building Corp	\$972,693	0.0548	\$945,648	0.0795	\$27,045	(0.0084)
Fire Building Debt (Fire Debt II Fund)	\$179,638	0.0214	\$305,882	0.0257	\$126,244	(0.0027)
Total Funds	\$10,561,169	0.6118	\$10,497,525	0.8756	\$63,644	(0.0080)
City of Southport						
City Corp. (General)	\$142,103	0.2317	\$142,103	0.4292	\$0	(0.1203)
Park & Recreation (Recreation)	\$47,444	0.0774	\$47,444	0.1667	\$0	(0.0893)
Total Funds	\$189,547	0.3090	\$189,547	0.5959	\$0	(0.2869)
City of Shoreline						
City Corp. (General)	\$4,216,224	0.6403	\$4,224,687	0.8223	\$8,463	0.0331
Park & Recreation	\$110,259	0.0167	\$205,966	0.0417	\$195,707	0.0016
Debt Service	\$1,076,768	0.1632	\$1,006,211	0.1305	\$70,557	0.0552
Police Pension	\$311,603	0.0475	\$312,492	0.0414	\$889	0.0017
Cumulative Capital Development	\$155,801	0.0237	\$170,742	0.0293	\$14,941	0.0012
Park Debt Service	\$204,799	0.0402	\$198,599	0.0458	\$6,200	(0.0056)
Total Funds	\$5,867,454	0.9193	\$6,019,934	1.0284	\$152,480	0.0052
Southport Public Transportation Center						
Transportation (Special Transportation Center)	\$6,366,472	0.9508	\$6,366,472	1.4113	\$0	0.0000
Total Funds	\$6,366,472	0.9508	\$6,366,472	1.4113	\$0	0.0000
City of Springfield						
City Corp. (General)	\$236,816	0.0560	\$236,816	0.0479	\$0	0.0001
Library Capital Projects	\$672,478	0.1021	\$672,478	0.1362	\$0	0.0000
Library Capital Projects	\$109,089	0.0167	\$109,089	0.0223	\$0	0.0000
Total Funds	\$1,018,383	0.1748	\$1,018,383	0.1864	\$0	0.0000
City of Springfield						
City Corp. (General)	\$406,720	0.7545	\$406,720	1.0060	\$0	0.0000
Total Funds	\$406,720	0.7545	\$406,720	1.0060	\$0	0.0000
City of Springfield						
City Corp. (General)	\$597,879	0.6273	\$598,024	0.8367	\$146	(0.1858)
Motor Vehicle Highway	\$62,636	0.0657	\$62,636	0.1431	\$0	0.0000
Park & Recreation	\$67,661	0.0710	\$67,661	0.1473	\$0	0.0000
Lease Rental	\$25,800	0.0271	\$25,800	0.0450	\$0	0.0000
Debt Service	\$33,300	0.0340	\$33,300	0.0797	\$0	0.0000
Park Donation	\$146	0.0002	\$146	0.0000	\$0	0.0000
Total Funds	\$787,421	0.8262	\$787,421	1.1316	\$0	0.0000
City of Springfield						
City Corp. (General)	\$85,595	0.3089	\$85,595	0.3010	\$0	0.0001
Total Funds	\$85,595	0.3089	\$85,595	0.3010	\$0	0.0001
City of Springfield						
City Corp. (General)	\$156,761	0.0550	\$156,761	0.0835	\$0	0.0000
Motor Vehicle Highway	\$10,379	0.0036	\$10,379	0.0071	\$0	0.0000
Total Funds	\$167,140	0.0586	\$167,140	0.0906	\$0	0.0000
City of Springfield						
City Corp. (General)	\$26,479	0.1157	\$26,479	0.1157	\$0	0.0000

CITY COUNTY COUNCIL NONBIDDING REVIEW

	2008 Projected			2009 Publish Version			Difference 2009 (Published vs. Projected)		
	Pay 2008 Max Levy	Certified 2008 AV	Pay 2008 Rate	Pay 2009 Levy	25% Red. of 2008 Certified AV	Pay 2009 Rate	Δ in Levy	Δ in AV	Δ in Rate
Town of Waterville									
City, Corp. (General)	\$12,054		0.0718	\$13,200		0.1014	\$11,146		(0.0083)
Total Funds	\$12,054	\$16,501,617	0.7128	\$13,200	\$12,777,700	0.8971	\$11,146	(\$3,723,917)	(0.0063)
Center Township									
Township Fund (General)	\$365,004		0.0066	\$359,622		0.0073	\$0		0.0007
Poor Relief (Township Assistance)	\$2,516,364		0.0454	\$2,474,900		0.0505	\$0		0.0051
Total Funds	\$2,881,368	\$5,545,994,125	0.8538	\$2,834,522	\$4,990,000,000	0.8578	\$5,164	(\$7,494,804,696)	0.0040
Deerfield Township									
Township Fund (General)	\$30,354	\$1,009,916,628	0.0030	\$0	\$1,119,940,746	0.0110	\$0		0.0080
Poor Relief (Emergency Assistance)	\$84,493	\$1,009,916,628	0.0084	\$122,660	\$1,119,940,746	0.0110	\$114,847		0.0026
Fire (Firefighting)	\$1,818,302	\$1,007,574,158	0.0180	\$6,784,762	\$1,119,940,746	0.0208	\$1,818,302		0.0028
Emergency Fire Loan (Fire Debt)	\$916,607	\$1,007,574,158	0.0091	\$673,063	\$1,119,940,746	0.0067	\$673,063		0.0024
Fire Building Debt (Building Debt)	\$503,508	\$1,007,574,158	0.0050	\$310,481	\$1,119,940,746	0.0027	\$310,481		0.0023
Cumulative Fee	\$250,886	\$1,007,574,158	0.0249	\$278,865	\$1,119,940,746	0.0249	\$18,164		0.0000
Total Funds	\$5,404,158		0.5363	\$5,189,831		0.7295	\$5,184,857		(0.2549)
Leicester Township									
Township Fund (General)	\$395,842	\$2,394,631,209	0.0165	\$350,000	\$1,809,318,875	0.0304	\$395,842		0.0139
Poor Relief (Township Assistance)	\$136,777	\$2,394,631,209	0.0057	\$195,000	\$1,809,318,875	0.0108	\$136,777		0.0051
Debt Service	\$75,000	\$2,394,631,209	0.0031	\$0			\$0		0.0031
Fire Building Debt (Fire Building Debt)	\$1,000,000	\$2,394,631,209	0.0417	\$1,000,000	\$1,677,726,004	0.0396	\$1,000,000		0.0021
Cumulative Fee	\$657,819	\$2,394,631,209	0.0274	\$500,000	\$1,677,726,004	0.0298	\$493,364		0.0076
Fire Prevention (Firefighting)	\$5,030,064	\$2,394,631,209	0.2094	\$8,500,000	\$1,677,726,004	0.0506	\$3,030,064		0.0000
Loan & Interest (Loan & Interest Payment Fund)	\$1,950,000	\$2,394,631,209	0.0812	\$1,950,000	\$1,677,726,004	0.1162	\$1,950,000		0.0350
Fire Equipment Debt	\$100,000	\$2,394,631,209	0.0042	\$100,000	\$1,677,726,004	0.0060	\$100,000		0.0018
Total Funds	\$9,545,582		0.6161	\$12,795,000		0.7994	\$9,164,547		(0.1187)
Leicester Township									
Township Fund (General)	\$76,326	\$6,429,565,529	0.0012	\$117,912	\$3,282,813,493	0.0036	\$91,620		0.0024
Poor Relief (Emergency Assistance)	\$248,051	\$6,429,565,529	0.0039	\$291,446	\$3,282,813,493	0.0089	\$242,977		0.0050
Debt Service	\$1,385,936	\$4,161,971,289	0.0333	\$2,222,338	\$3,282,813,493	0.0688	\$222,338		0.0355
Cumulative Fee	\$7,803,938	\$4,161,971,289	0.1875	\$10,102,872	\$3,122,487,024	0.0760	\$1,039,452		0.0085
Fire Prevention (Firefighting)	\$2,149,865	\$4,161,971,289	0.0517	\$3,229,421	\$3,122,487,024	0.1050	\$780,398		0.0533
Loan & Interest (Emergency Fee Loan)				\$10,856	\$3,282,813,493	0.0003	\$2,229,421		0.0714
Total Funds	\$11,664,116		0.3775	\$14,807,845		0.6516	\$11,819,726		(0.2841)
Deer Township									
Township Fund (General)	\$237,561	\$4,297,700,408	0.0055	\$278,241	\$3,000,000,000	0.0093	\$237,561		0.0038
Poor Relief (Township Assistance)	\$111,691	\$4,297,700,408	0.0026	\$141,600	\$3,000,000,000	0.0047	\$111,691		0.0021
Debt Service	\$1,787,687	\$3,614,633,374	0.0495	\$0			\$0		0.0495
Cumulative Fee	\$965,960	\$3,614,633,374	0.0267	\$948,254	\$2,475,000,000	0.0383	\$723,530		0.0283
Fire	\$8,309,231	\$3,614,633,374	0.2290	\$4,632,837	\$2,475,000,000	0.3488	\$8,309,231		0.0812
Fire Pension	\$181,120	\$3,614,633,374	0.0050	\$0			\$0		0.0050
Total Funds	\$11,693,279		0.3192	\$13,060,832		0.6011	\$9,362,313		(0.3481)
Deer Township									
Township Fund (General)	\$874,461	\$3,310,888,337	0.0164	\$5,276,231	\$4,615,324,146	0.1143	\$5,276,231		0.0979
Debt Service	\$712,842	\$3,310,888,337	0.0139	\$493,826	\$4,615,324,146	0.0107	\$554,378		0.0139
Fire Prevention (Firefighting)	\$11,992,261	\$3,310,888,337	0.2179	\$17,943,087	\$4,615,324,146	0.3881	\$11,992,261		0.1702
Total Funds	\$13,579,564		0.2482	\$23,713,144		0.5128	\$17,423,879		(0.2711)
Warren Township									
Township Fund (General)	\$167,659	\$3,992,839,865	0.0042	\$0	\$2,994,629,899	0.0093	\$0		0.0042
Poor Relief (Township Assistance)	\$111,772	\$3,992,839,865	0.0028	\$112,000	\$2,994,629,899	0.0116	\$279,431		0.0088
Fire	\$8,128,813	\$2,904,815,716	0.2798	\$0			\$0		0.2798
Total Funds	\$8,408,246		0.3068	\$11,200		0.8116	\$779,431		(0.0022)
Watkins Township									
Township Fund (General)	\$292,581	\$9,401,701,490	0.0031	\$500,000	\$7,128,704,629	0.0049	\$292,581		0.0018
Poor Relief	\$417,913	\$9,401,701,490	0.0044	\$500,000	\$7,128,704,629	0.0070	\$417,913		0.0026
Total Funds	\$710,494		0.0075	\$1,000,000		0.0119	\$282,087		(0.0035)

2005G Variable-Rate Bond Refinancing
Department of Waterworks
Presentation to the Rules and Public Policy
Committee
Indianapolis City-County Council
May 12, 2009



How did we get here?

In 2005, Waterworks determined it needed additional funds to complete capital projects. The City-County Council, the Board of Waterworks and the Bond Bank Board approved a finance plan that issued certain bonds, including the 2005G variable-rate bonds in the principal amount of \$388 million, to refinance a significant portion of the waterworks acquisition.

How did we get here?

In an attempt to hedge against potential increased interest rates associated with 2005G Series variable-rate bonds and to achieve an advance refunding, swap agreements were included.

The financing plan was projected to generate approximately \$45 million for Waterworks' capital projects.

In 2008, Waterworks' variable-rate debt took a direct hit from the 2008 financial market crisis.

Interest expense on variable rate debt increased dramatically.

- Interest rates rose from 3.5 percent to 9.5 percent.
- Financial impact to Waterworks was **\$25.9 million more in debt service payments** for 2008 than in 2007.

Taking Action to Protect Ratepayers

In February 2008, the Bond Bank began discussions about refinancing bonds from variable-rate debt to fixed-rate debt.

Removing MBIA Insurance Corp., the bond insurer, and DEPFA Bank, the liquidity provider, from the 2005 G variable-rate bonds likely will result in lower interest rates because both entities are seriously “tainted.”

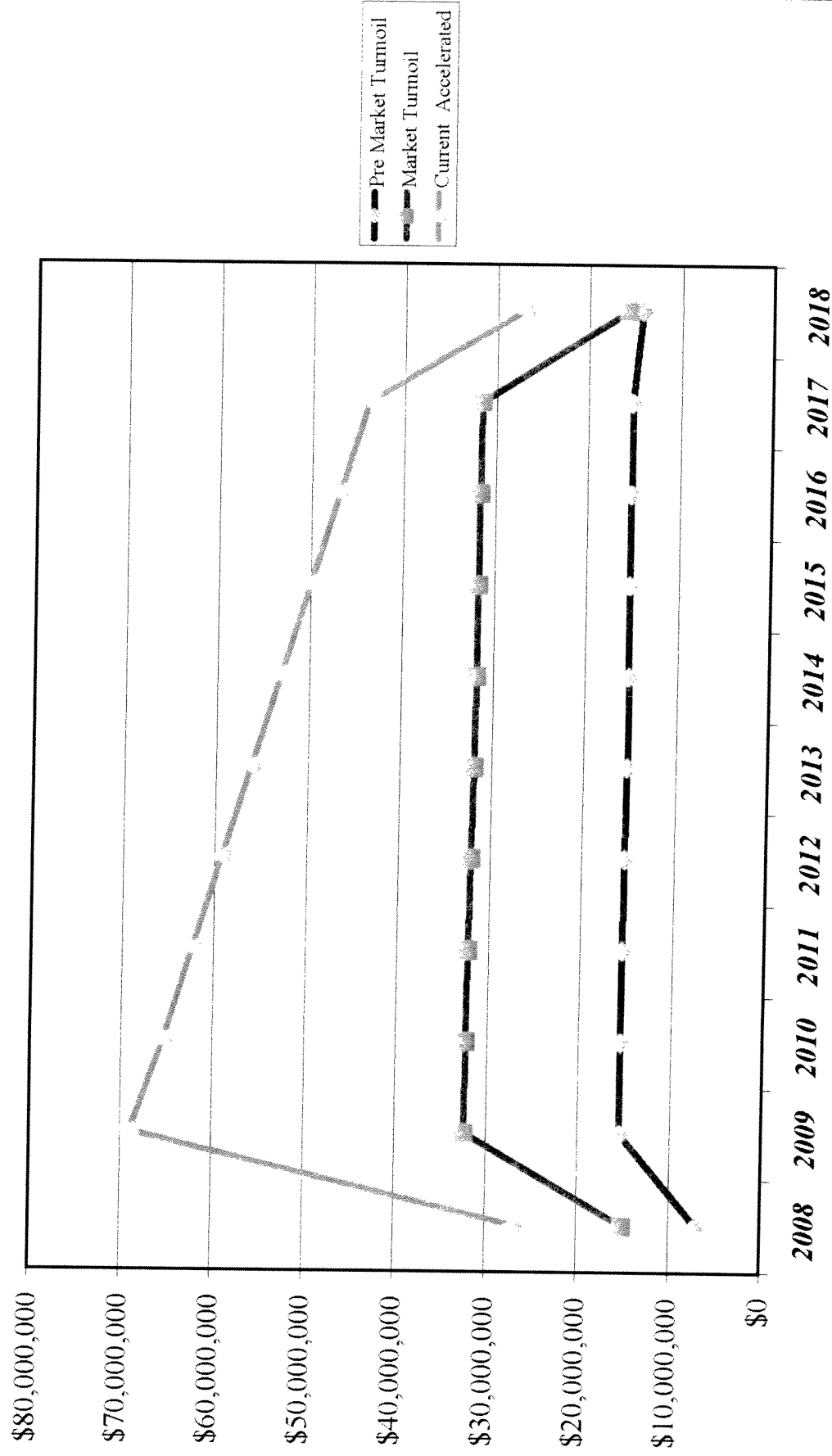
Waterworks and the Bond Bank is requesting that the City-County Council, Board of Waterworks and the Bond Bank Board approve refinancing the remaining 2005G variable-rate debt into fixed-rate debt and terminating the associated swap agreement.

The swap termination fee is expected to range from approximately \$60 to \$90 million and is included in the refinancing.

No Action:

- Waterworks will be required in 2009 to pay \$51.2 million in accelerated debt service payments;
- Waterworks' credit rating will be downgraded; and
- Waterworks will face an increased 2009 operating shortfall of \$57.6 million.

Annual Principal and Interest Payments for the 2005 G Bonds



* 2008 payments are for the last six months and 2018 payments are only for the first six months

Questions?

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